

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941 MV/LFG

RIO CHAMA STREAM SYSTEM
Section 3: Rio Nutrias

STATUS REPORT ON *INTER SE* PROCEEDINGS

The State of New Mexico *ex rel.* State Engineer through its counsel of record, Edward G. Newville, files this Status Report on *Inter Se* Proceedings in the Rio Nutrias Subsection of Section 3 of the Rio Chama Stream System.

1. In July 2011, the State of New Mexico initiated *inter se* proceedings in Rio Nutrias Subsection of Section 3. *See Notice of Proposed Partial Final Judgment and Decree on Surface Water Irrigation Rights in the Rio Nutrias Subsection of Section 3 of the Rio Chama Stream System* (Doc. No. 10520, July 21, 2011). The deadline for filing *inter se* objections was December 15, 2011. (Doc. No. 10522).

2. Following service of the Court's Notice and Order to Show Cause on all defendants in the Rio Nutrias Subsection and publication of the Court's Notice and Order to Show Cause, Filiberto and Domitilia Ulibarri filed their *inter se* objection to the proposed decree of water right of Lucia A. and Robert J. Montoya in Subfile CHNU-002-0014. *See Report on Inter Se Objections* (Doc. No. 10674, February 26, 2011). Other than Lucia A. and Robert A. Montoya (Doc. No. 10698,

March 12, 2012), no defendants in the Rio Nutrias Subsection have filed a notice of intent to participate in the *inter se* proceedings to resolve this objection.

3. The resolution of the *inter se* objection filed by Filiberto and Domitilia Ulibarri is the only barrier to the entry of a Partial Final Judgment and Decree in the Rio Nutrias Subsection. The State of New Mexico has a strong interest in the completion of the adjudication of surface water irrigation rights and the entry of a decree in this subsection. The decree will aid the administration of water rights in this subsection and the Rio Chama Stream System generally, which has recently experienced an increasing shortage of available surface water.

4. The State of New Mexico has not to date requested a pretrial or scheduling conference with the Court to address how the Ulibarris' *inter se* claims will be addressed by the Court because counsel for both Filiberto and Domitilia Ulibarri (John W. Utton) and Lucia A. and Robert A. Montoya (Bruce S. Garber) have indicated an intention to attempt to settle their controversy such that the *inter se* objection might be withdrawn. Settlement discussions between the defendants have been ongoing throughout the summer and fall of 2012.

5. Recently, counsel for the State of New Mexico has been notified by counsel for the defendants that they expect that an additional 30 to 60 days will be required for the parties to complete and finalize a settlement agreement that would allow for the withdrawal of the *inter se* objection.

6. In the event that defendants are unable reach a settlement and then withdraw the *inter se* objection within approximately 60 days (mid-January), the defendants should be required to attend a pretrial or scheduling conference, or take such other action as directed by the Court, to address the timely resolution of the *inter se* objection.

Respectfully submitted,

/s/ Ed Newville

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of November 2012, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail, and served the following non-CM/ECF Participants in the manner indicated:

via first class mail, postage prepaid addressed as follows:

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